THE HON'BLE Dr. JUSTICE G. YETHIRAJULU

W.P.No.15490 of 1990

Date: 30--12—2005

Between:

R. Saroja, d/o late Ramakistaiah,

Aged about 38 years, Occupation: Parti-time

Lecturer, A.V.V. Junior College, Warangal,

R/o. H.No.10-1-4, Girimajipet, Warangal.

…. **Petitioner**

and

Director of Intermediate Education,

Government of Andhra Pradesh, Hyderabad,

and two others

…. **Respondents**

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W.P.No.15490 of 1990

ORDER:

The petitioner approached this Court through this writ petition seeking a direction to the respondents to regularize her services as Junior Lecturer in Economics with

effect from the date of her first appointment with all consequential benefits.

2. The following are the averments made in the affidavit filed in support of the writ petition.

The petitioner is a Post Graduate in Economics and she is eligible for appointment as a Junior Lecturer in Economics.

The third respondent appointed her as a Part-time Junior Lecturer in A.V.V. Junior College, Warangal with effect from

28-08-1985. She was selected by a Selection Committee duly constituted by the Management in the year 1985. There has been a regular vacancy of the post of Junior Lecturer in Economics since 19-11-1983. The petitioner is entitled for regularization as Junior Lecturer in Economics, but the Management did not consider her case for regularization.

The Government of India constituted a College Service Commission in October 1995. The second respondent appointed one Sri Raj Mahender Reddy, through the proceedings dated

11-10-1990 to allot him to the third respondent-Institution leading to the termination of the services of the petitioner.

The petitioner's appointment was done prior to the constitution of College Service Commission. After lapse of five years, the Commission is making appointments jeopardizing the vested right of the petitioner. The petitioner's livelihood will be deprived if she is terminated from service. Hence, the writ for the reliefs as mentioned above.

3. The third respondent filed a counter contending that the petitioner was appointed only on temporary basis and the appointment order of the petitioner dated 20-06-1985 indicates that her appointment was only till such time a regular appointment is made as per rules and her services will be terminated without giving any notice or without assigning any reason thereof. The appointment of the petitioner was not made as per the procedure for selection of the lecturers. A letter addressed to the first respondent for filling up the vacancy does not entitle the petitioner to get her service regularized in view of G.O.Rt.No.1319 Education dated 14-09-1988 issued by the Government of Andhra Pradesh. As per the G.O., the private managements are barred from filling up vacancies after the constitution of the College Service Commission.

The appointment of the petitioner was not in accordance with the procedure

prescribed under G.O.Ms.No.905 Education, dated
21-09-1976. The petitioner cannot claim vested right by virtue of her temporary appointment. Presently there is no vacancy in the faculty of Economics, therefore, any direction issued after considerable length of time would result in a difficult situation in implementing the said order. The writ petition is, therefore, liable to be dismissed.

4. The learned counsel for the petitioner submitted that as per G.O.Ms.No.302 dated 23-08-1991, the lecturers, who have completed 2 ½ years service on adhoc basis, are entitled to be absorbed as regular lecturers. He further submitted that as per G.O.Ms.No.328 dated 09-10-1997, the conditions prescribed for appointment have been relaxed and if there is no vacancy the management can absorb the petitioner in future vacancy.

5. The learned counsel for the respondents submitted that the appointment of the petitioner was not in accordance with the conditions prescribed in G.O.Ms.No.905. G.O.Ms.No.302 dated 23-08-1991 is not applicable to the private colleges and it is only applicable to the Government colleges. The learned counsel for the respondents further submitted that as per the proceedings of the Director of Higher Education dated 24-12-1984, the private Management shall not fill up any vacant posts or posts that may arise in future as laid down in G.O.Ms.No.905 Education dated 21-09-1976. The vacancies should be filled up from the available service commission candidates only. They are also informed that any person now working against and not qualified where communal roaster etc., was not followed, they should be replaced by the available Public Service Commission candidates. The learned counsel for the respondents further submitted that in the light of the above proceedings, the private Managements are prevented from making any appointments and the appointments will be made only from out of Service Commission candidates. As per G.O.Rt.No.1319, the lecturers shall be appointed by a duly constituted Selection Committee and as the petitioner was appointed subsequent to 24-12-1984 without following the procedure prescribed under G.O.Ms.No.905, the petitioner cannot be absorbed into regular service.

6. In the light of the above contentions and the material placed by both parties, the point for consideration is whether the petitioner is entitled for the reliefs as prayed for?

7. It is an undisputed fact that the petitioner was appointed as a Part-time Junior Lecturer on 20-08-1985. From the year 1984 there were clear instructions to the Management that the appointments of the junior lecturers shall be made through a Selection Committee duly constituted by the Management by following the procedure prescribed under the orders issued by the Government from time to time. Though the appointment of the petitioner was subsequent to 24-12-1984 she was not appointed by following the prescribed procedure.

8. The petitioner on the ground that the Management appointed another person as lecturer filed this writ petition in the year 1990 seeking a direction to the respondents to regularize her service. The record further discloses that from the year 1991 onwards certain relaxations have been given, but she was discontinued from service on 22-03-1991 during the pendency of the writ petition.

9. The learned counsel for the petitioner submitted that the Management instead of regularizing the service of the petitioner terminated her from service subsequent to the filing of the writ petition thereby so much prejudice has been caused to the petitioner.

10. The learned counsel for the petitioner placed reliance on the following judgments:

State of U.P. and others v. Sant Lal, ***Jacob M. Puthuparambil v. Kerala Water Authority***, ***Vasavi College of Engineering v. A. Suryanarayana***, ***T. Subbaiah and others v. Commissioner of Endowments, Hyderabad and another***, ***and three judgments of this Court in W.P.Nos.15283 of 1990, 20370 of 1993, and 6722 of 1996 dated 13-11-1998, 04-04-2002 and 12-06-1997 respectively***.

11. Since the petitioner was not terminated from service on the date of filing of the writ petition, the principles laid down in the above judgments are not applicable to the facts of the present case.

12. Since this is not the case of termination of the petitioner before filing of the writ petition, the learned counsel for the petitioner submitted that as the petitioner was terminated from service subsequent to the date of filing of the writ petition, a direction may be given for reinstatement of the petitioner and for regularization of her service.

13. The appointment order of the petitioner clearly indicted that she was

appointed on temporary basis till the regular vacancy was filled up. The petitioner could not place any material to show that she was appointed as per the procedure prescribed under the instructions of the Government.

The relaxation, if any, was only subsequent to the appointment of the petitioner. The appointment of the petitioner was subsequent to the proceedings issued by the Director of Higher Education that the vacancies of the Junior Lecturers shall be filled up from the available Service Commission candidates only. Therefore, the petitioner could not be accommodated on regular basis.

14. The learned counsel for the petitioner submitted that several appointments were made subsequent to the proceedings of the Director of Higher Education by the private managements and the services of those candidates were also regularized but the petitioner who comes under the same category was not accommodated. Therefore, the case of the petitioner may also be considered on par with the other candidates, whose services were regularized after appointment made by the respective managements. The services of the petitioner were dispensed with subsequent to the date of filing of the writ petition. But the petitioner did not make any amendment to the prayer or file any fresh petition challenging the termination order of the Management. The petitioner is no more in service, but she is seeking only relief of regularization of her service. When the petitioner is not continuing in service, the question of regularization of her service subsequent to the date of termination does not arise.

15. So far as the period from the date of filing of the writ petition till the date of termination of the service of the petitioner is concerned, the material placed by the respondents clearly indicated that the petitioner was not entitled for automatic regularization of the service since she was not appointed on the recommendation of a duly constituted Selection Committee by the Management and she is not a candidate of the Service Commission. Therefore, the petitioner is not entitled for any relief as prayed for.

16. In the result, the writ petition is dismissed. No order as to costs.

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Dr.G. YETHIRAJULU, J

Date: 30--12--2005

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